

Peter Ash, MD

March 4, 2019

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

ROBBIE EMERY BURKE,

Plaintiff,

CIVIL ACTION

vs.

FILE NUMBER

MUSKOGEE COUNTY COUNCIL OF
YOUTH SERVICES ("MCCOYS"),
et al.,

18-CV-108-Raw

Defendants.

VIDEOCONFERENCE DEPOSITION OF

PETER ASH, MD

March 4, 2019

1:02 p.m.

2900 Chamblee Tucker Road
Building 13
Atlanta, Georgia 30341

Thomas R. Brezina, CRR, RMR, CCR-B-2035

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1 Then -- but even the arteries take a quite a bit.
2 Another possibility is, you simply occlude the
3 jugular veins, which takes the least force, and that
4 prevents venous return from the brain, but then it
5 also takes longer for you to pass out.

6 And so here he's in a situation where
7 all he has to do is raise his head and everything
8 stops and he's perfectly able to do that. This is
9 not like he's hanging from a -- you know, something
10 on the ceiling where once you've done it, you don't
11 have a whole lot of options unless you can actually
12 pull yourself up or something, so at any point prior
13 to passing out, he can push himself up and it's
14 fine.

15 Now, we know that he in the past has
16 made suicide attempts by hanging which have not been
17 successful.

18 Q We know that from what?

19 A Because that is what he said. I mean,
20 we're assuming -- that is on the assessments.

21 Q Was he truthful?

22 A Well, we don't know. But there is --
23 you know, that's what he says, so he's done some
24 hanging before and survived, which suggests that the
25 hanging was something where he did something -- it

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1 could well be he did something like this and then
2 sort of lift half -- partway and he lifts his head
3 up and decides, okay, I'm not going to go through
4 with it.

5 Q Is it important to you that he also
6 stated during the assessment that he had not
7 received any medical treatment from his prior
8 attempts? Including the gun that he claimed he
9 tried.

10 A Yeah. That -- I'm not sure what to
11 make of that.

12 Q On this particular day --

13 A But -- so anyway, he's here. He's on
14 the floor, and all he can do is lift his head up, so
15 it seems to me likely that he was playing around
16 with this for a while. You know, puts his head
17 down. Then you could lift it up.

18 I mean, you can put it down; lift it
19 up. I also think it possible -- again, we obviously
20 don't have video; we don't know -- that he thought,
21 well, as long as he could still breathe, he was not
22 going to die because I think most people think when
23 you hang yourself, what you are doing is you're
24 cutting off your airway and you can't breathe and
25 that is why you die.

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1 Putting some weight on the neck -- you
2 can put enough weight on the neck that will occlude
3 the jugular veins but will not break your -- will
4 not block your airway. So you can lie there
5 thinking, oh, I'm breathing, so this is fine;
6 anytime I want, I can lift my head. And then you
7 pass out, and of course once you have passed out,
8 then you can't make decisions to reverse it. At
9 that point various physiological things start to
10 happen.

11 But it seems to me given this
12 particular way of doing it, he likely played around
13 with it for a while. He did it. Lift his head up
14 because he'd done it before presumably, assuming
15 he's telling the truth about the previous attempts,
16 and so that is going to go on for some period of
17 time.

18 How long? We don't know. Okay. At
19 some point he passes out. Now, at that point, then
20 the clock sort of really starts ticking. Then the
21 question is, all right. From that point how long
22 does it take to be dead? From what I have read, it
23 turns out that is not terribly clearly understood.
24 The estimates are something like four to six
25 minutes, I suppose. Maybe a little less in some

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1 cases; maybe more. So say, you know, five minutes
2 there.

3 So then the total time at which, had
4 there been an observation, something would have been
5 seen starts with, he starts -- he takes the sheets
6 off the bed and then he makes the noose. Then he
7 puts his head in it and lifts it up and down for
8 however long that is, and then at some point passes
9 out, and then it's another five minutes. So how
10 long the sheets took, how long the noose took, how
11 long he played around, I don't have any -- I can't
12 give you within minutes for that.

13 Q It would be speculation?

14 A That would be speculation. But the
15 fact that all of these are going to take some time,
16 puts the total time from taking the sheets off to
17 death at well more than seven and a half minutes,
18 which means it's more likely than not that had he
19 had 15-minute checks, somebody would have seen it.

20 Q How do you get from seven and a half to
21 more than 15?

22 A Seven and a half minutes is
23 statistically, how -- if you randomly take -- if you
24 are checking every 15 minutes, seven -- seven and a
25 half minutes is where fifty percent of the time at a

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1 15-minute check you will see it happen --

2 Q What do you --

3 A Because it's half of -- what? If you

4 start -- if you start at any minute -- if you --

5 okay. Someone observes him. That is time zero.

6 Okay? If you start the sequence at any point after

7 minute 7.5, then at the next 15-minute check you'll

8 be observed in the middle of it.

9 Q And where is that literature?

10 A What?

11 Q Where is that literature?

12 A That is statistics. Seven and a half

13 minutes at -- at seven minutes and 31 seconds, then

14 15 minutes will be seven and a half minutes after

15 that, so you will see it. That is just the point.

16 So I'm saying that the sequence of taking the sheet

17 off, making a noose, do all of that, you know, we

18 don't know exactly, and then add on five minutes for

19 death. But to say that he took off the sheet and

20 made the noose and played around and all of that

21 took place in less than two and a half minutes,

22 strikes me as highly improbable.

23 Q Can we agree that he could twist this
24 sheet, put it around his neck, make the few loops he
25 made, and tie it to the bar in under two minutes?

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1 interrupted it. It doesn't mean -- you know,
2 because you just take, you know, eight divided by 15
3 is whatever it is. More than 50 percent.

4 Q So --

5 A So yes. Is it possible? I'm not -- my
6 report doesn't say, oh, yes, it's absolutely clear
7 that 15-minute checks, you know, would have caught
8 it. I'm not saying that at all.

9 Q And if you look on page 16 --

10 A I'm just saying it's more likely than
11 not.

12 Q If you look on page 16 of 22, there is
13 a reference again to Dr. Ryan Brown. Program
14 Manager Bateman attended the child protection
15 committee meeting at Children's Hospital in Oklahoma
16 City.

17 Do you see that?

18 A I do.

19 Q Dr. Brown indicated based on the
20 positioning of the sheet and the position of Woods'
21 neck, that death could have taken place within a
22 15-minute time period, and that would be consistent
23 with what you just said; right? It could happen --

24 A Sure.

25 Q -- within that time?

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1 A It could happen in that time.

2 Q Your report, which is marked as Exhibit

3 1 --

4 A I should add the point, it can't happen
5 in a five-minute check -- time period.

6 Q Impossible?

7 A Well, I always remember never to say
8 always and never. I wouldn't say impossible.
9 Exceedingly unlikely.

10 Q Looking at page -- at the second page
11 of your report --

12 A The second page?

13 Q Yes, sir. Where it starts with course
14 of events.

15 A Uh-huh.

16 Q And you say that he was admitted to
17 Muskogee for being a runaway; is that right?

18 A That is my understanding.

19 Q Is it also your understanding that he
20 was a runaway on probation for burglary and
21 obstruction of an officer charges, criminal charges?
22 In other words, this isn't just a kid that ran away.

23 A At this moment I'm not sure whether I
24 knew that or not.

25 Q Do you know anything about --